APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,632	08/21/2003	J. Patrick Thompson	14917.0552US01	9779

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
SIDDIQI, MOHAMMAD A

ART UNIT	PAPER NUMBER
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Office Action Summary	Application No.	Applicant(s)
		10/646,632	THOMPSON, J. PATRICK
		Examiner	Art Unit
		Mohammad A. Siddiqi	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _21 August 2003_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-52_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-52_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _21 August 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _See Continuation Sheet_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/11/2006,02/06/2006,02/06/2006,06/17/2005,02/09/2004.

DETAILED ACTION

1.   Claims 1-52 are examined on the merits.

Information Disclosure Statement

2.   The information disclosure statement (IDS) filed on 02/09/2004,

06/17/2005, 02/06/2006, and 12/11/2006 has been considered.

Claim Objections

3.   Claims 1, 27, and 28 are objected to because of the term ("Items").

Applicant is required to remove the parentheses and quotation marks.

4.   Claims 3, 7, 30, and 34 are objected to because of the term (directly

or indirectly). Applicant is required to remove the parentheses.

Double Patenting

5.   A rejection based on double patenting of the "same invention" type

finds its support in the language of 35 U.S.C. 101 which states that

"whoever invents or discovers any new and useful process ... may obtain a

patent therefor..." (Emphasis added). Thus, the term "same invention," in

this context, means an invention drawn to identical subject matter. See

Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467,

114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619

(CCPA 1970).

6.   A statutory type (35 U.S.C. 101) double patenting rejection can be

overcome by canceling or amending the conflicting claims so they are no

longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u>

overcome a double patenting rejection based upon 35 U.S.C. 101.

7.   Claims 1 and 27 are provisionally rejected under 35 U.S.C. 101 as

claiming the same invention as that of claim 1 of copending Application No.

10/646,941. This is a provisional double patenting rejection since the

conflicting claims have not in fact been patented.

8.   The nonstatutory double patenting rejection is based on a judicially

created doctrine grounded in public policy (a policy reflected in the statute)

so as to prevent the unjustified or improper timewise extension of the "right

to exclude" granted by a patent and to prevent possible harassment by

multiple assignees. A nonstatutory obviousness-type double patenting

rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Omum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

9.   A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

10.   Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11.   Claims 1-52 provisionally rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 1-84,

respectively, of copending Application No. 10/646,941. Although the

conflicting claims are not identical, they are not patentably distinct from

each other because the invention recited by claims 1-84 of the copending

application is an obvious variant of the invention claimed by the instant

application. It is noted that claim 1 of copending application do not recite the

limitation of "properties understandable by said hardware/software interface

system." However, it would have been readily obvious to one of ordinary

skill in the art at the time of the invention that the system recite in claim 1

of the instant application hardware/software manages the recited

relationships. Further, "A later patent claim is not patentably distinct from an

earlier patent claim if the later claim is obvious over, or anticipated by, the

earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a

holding of obviousness-type double patenting because the claims at issue

were obvious over claims in four prior art patents); In re Berg, 140 F.3d at

1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of

obviousness-type double patenting where a patent application claim to a

genus is anticipated by a patent claim to a species within that genus). " ELI

LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of

Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC

(DECIDED: May 30, 2001).

This is a provisional obviousness-type double patenting rejection

because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

12.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country
> or in public use or on sale in this country, more than one year prior to the date of application
> for patent in the United States.

13.   Claims 1-2 and 27-29 are rejected under 35 U.S.C. 102(b) as being

Anticipated by D'Andrea & Janus (UNISQL'S NEXT-GENERATION OBJECT-

RELATIONAL DATABASE MANAGEMENT SYSTEM Albert D 'Andrea and Phil

Janus) (hereinafter D'Andrea).

14.   As per claim 1, D'Andrea discloses a computer-readable medium with

computer-readable instructions for a hardware/software interface system for

a computer system (page 71, lines 1-7), wherein said hardware/software

interface system (Balanced Client-Server Architecture, pages 73-74)

manipulates a plurality of discrete units of information having properties

understandable by said hardware/software interface system ("Items")

(Object-Oriented Data Model, page 72, and pages 73-74, Balanced Client-

Server Architecture).

15.   As per claim 2, D'Andrea discloses hardware/software interface system

comprises a core schema to define a set of core Items which said

hardware/software interface system understands and can directly process in

a predetermined and predictable way (Language-Independent data storage,

page 73).

16.   As per claim 27, the claim is rejected for the same reasons as claims

1-2, above.

17.   As per claim 28, the claim is rejected for the same reasons as claim 1,

above.

18.   As per claim 29, the claim is rejected for the same reasons as claim 2,

above.

Claim Rejections - 35 USC § 103

19.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

20.   Claims 3-26 and 30-52 are rejected under 35 U.S.C. 103(a) as being

unpatentable over D'Andrea & Janus (UNISQL'S NEXT-GENERATION OBJECT-

RELATIONAL DATABASE MANAGEMENT SYSTEM Albert D 'Andrea and Phil

Janus) (hereinafter D'Andrea) in view Reed et al. (6345288) (hereinafter

Reed).

21.   As per claim 3, Although D'Andrea discloses defining data types in a

Object-oriented data model. D'Andrea explicitly does not discloses each Item

from the set of core Items is derived (directly or indirectly) from a common

single base Item (fig 3, col 17, lines 10-26). It would have been obvious to

one of ordinary skill in the art at the time of the invention was made to

combine the teachings of Reed and D'Andrea. The motivation would have

been developing a communication system using object database

management system (ODBMS), because ODBMS generally provide high

performance processing on complex data for businesses.

22.   As per claim 4, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses said common single base Item is a

foundational Item in a Base Schema (fig 3-4, col 17-18).

23.   As per claim 5, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses foundational Item type comprises a

property for a unique identification of said Item in a hardware/software

interface system (fig 3-4, col 17-18).

24.   As per claim 6, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses core schema further defines a set of core

properties which said hardware/software interface system understands and

can directly process in a predetermined and predictable (fig 3-4, col 17-18).

25.   As per claim 7, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses each property from the set of core Items

is derived (directly or indirectly) from at least one base property (fig 3-4, col

17-18).

26.   As per claim 8, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses base property is a property in a Base

Schema (fig 3-4, col 17-18).

27.   As per claim 9, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

devices (fig 3-4, col 17-18).

28.   As per claim 10, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

events (fig 3-4, col 17-18).

29.   As per claim 11, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses n the core schema comprises an Item for

commodities (fig 3-4, col 17-18).

30.   As per claim 12, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

messages (fig 3-4, col 17-18).

31.   As per claim 13, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

Categories (fig 3-4, col 17-18).

32.   As per claim 14, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

principals (fig 3-4, col 17-18).

33.   As per claim 15, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

locations (fig 3-4, col 17-18).

34.   As per claim 16, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

documents (fig 3-4, col 17-18).

35.   As per claim 17, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

statements (fig 3-4, col 17-18).

36.   As per claim 18, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises an Item for

contacts (fig 3-4, col 17-18).

37.   As per claim 19, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

a certificate (fig 3-4, col 17-18).

38.   As per claim 20, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

a principal idunit key (fig 3-4, col 17-18).

39.   As per claim 21, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

a postal address (fig 3-4, col 17-18).

40.   As per claim 22, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

a rich text element (fig 3-4, col 17-18).

41.   As per claim 23, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

an electronic address (fig 3-4, col 17-18).

42.   As per claim 24, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

an idunit security package (fig 3-4, col 17-18).

43.   As per claim 25, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a Relationship

for occupying a role between two Contacts (fig 3-4, col 17-18).

44.   As per claim 26, the claim is rejected for the same reasons as claim 3

above. In addition, Reed discloses the core schema comprises a property for

a basic presence (fig 3-4, col 17-18).

45.   As per claims 30-52, claims are rejected for the same reasons as

claims 3-26, above.

Conclusion

46.   The prior art made of record and not relied upon is considered
pertinent to applicant's disclosure:

US Patent 7,145,898

US Patent 7,145,898

US 20020095454

47.   Any inquiry concerning this communication or earlier communications
from the examiner should be directed to Mohammad A. Siddiqi whose
telephone number is (571) 272-3976. The examiner can normally be
reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915.
The fax phone number for the organization where this application or
proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private

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access to the Private PAIR system, contact the Electronic Business Center

(EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

MAS

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100